UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/685,274	10/09/2000	Eric Sean Parham	066303.0169	4448

7590	12/29/2004	EXAMINER

Charles S. Fish, Esq.
Baker Botts L.L.P.
2001 Ross Avenue
Dallas, TX 75201-2980

LEVITAN, DMITRY

ART UNIT	PAPER NUMBER
2662	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Application No.	Applicant(s)
Office Action Summary		09/685,274	PARHAM ET AL.
		Examiner	Art Unit	
		Dmitry Levitan	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _01 November 2004_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _11/01/04_.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

Amendment, filed on 11/01/2004, has been entered. Claims 1-20 remain pending.

Claim Rejections - 35 USC § 112

1.   Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as

the invention.

In claims 1 and 14, it is unclear what is meant by "broadband loop emulation service

signaling protocol", because it is neither defined in the specification nor a well known in the art.

In claim 3, it is unclear what is meant by "provide the signaling information in a media

gateway and call session control format to a class 5 softswitch", because class 5 softswitch is

neither defined in the specification nor a well known in the art; signaling information in a media

gateway and call session control format to a class 5 softswitch is neither defined in the

specification nor a well known in the art.

In claim 9, it is unclear what is meant by "class 5 softswitch operable to receive signaling

information in a network signaling format", because class 5 softswitch is neither defined in the

specification nor a well known in the art; network signaling format to a class 5 softswitch is

neither defined in the specification nor a well known in the art.

Claim Rejections - 35 USC § 103

2.   Claims 1- 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyk (US

6,603,760).

3.   Regarding claims 1, 2, 5, 6, 14-16, Smyk teaches:

a system and a method for interfacing between signaling protocols (Fig. 4 and 3:49-62),

comprising:

A gateway (gateway 411 and SM 416 on Fig. 4 and 6:10-47) operable to receive signaling

information in a media gateway and call session control format (MGCP or H.248 standard 9:20-

30 and 8:21-23), the gateway operable to convert the media gateway and call session format to a

broadband loop emulation service signaling protocol (9:26-30), the gateway operable to provide

some detection capabilities pursuant to the signaling information (7:45-57), including access

gateway 408 on Fig. 4 operable to provide tone generation (8:28-35) and additional detecting

capabilities pursuant to the signaling information (8:36-47).

        Smyk does not teach tone generation and full detecting capabilities at the gateway, as

specified in claims 1 and 14.

It would have been obvious to one of ordinary skill in the art at the time the invention was made

to move tone generation and full detecting capabilities from an access gateway to the gateway in

the system of Smyk to reduce the system cost, because one network gateway supports numerous

access gateways, and it is cheaper to concentrate generation and detecting features in a network

gateway.

        In addition regarding claim 2, Smyk teaches the gateway converting the broadband loop

emulation service signaling protocol into media gateway and call session control format (5:10-

45).

Regarding claim 3, Smyk teaches the gateway providing the signaling information in a media gateway and call session control format to a class 5 switch (4:5-17).

Regarding claims 9-11, Smyk teaches a class 5 switch (EO 418 and STP 426 on Fig. 4 5:1-4 and 8:56-58), receiving signaling information in SS7 format (8:56-67), converting it to media gateway and call session control format and vice versa (inherently part of the system because SM operates in media gateway and call session control format and operates with class 5 switch) and controlling incoming call requests from a network through the gateway according to the signaling information (8:60-67).

4.   Regarding claims 12, 13, 19 and 20, Smyk teaches the broadband loop emulation service signaling protocol implementing a common channel signaling format and standard (ABCD signaling 8:1-8 and GR-303 6:10-20).

Regarding claim 18, Smyk teaches providing the broadband loop emulation service signaling protocol (3:23-35) to an integrated access device at the customer premises (local loop gateway 309 on Fig. 3b).

5.   Regarding claims 4, 7, 8 and 17, Smyk substantially teaches the limitations of parent claims 1 and 14.

Smyk does not teach using SGCP, SIP, and H.323 as media gateway and call session control formats, as specified in claims 4, 7, 8 and 17.

Official notice is taken that using SGCP, SIP, and H.323 as media gateway and call session

control formats is well known and expected in the art. It would have been obvious to one of

ordinary skill in the art at the time the invention was made to add using SGCP, SIP, H.323 as

media gateway and call session control formats to the system of Smyk to improve the system

compatibility with widely used standards.

Response to Arguments

6.   Applicant's arguments filed 11/01/04 have been fully considered but they are not

persuasive.

Claim Rejections - 35 USC § 112

On page 6 of the Response, Applicant argues that article of Wiseman "Standardize and Deliver"

is an evidence to support Applicant's alleged fact that BLES protocol is well known in the art.

Examiner respectfully disagrees.

The article of Wiseman, submitted as filed IDS, is not relevant because the article bears a date

(assumed to be a publication date of December 4, 2000) and does not establish the state of the art

at the time the invention was made (the application was filed October 9, 2000).

On page 6 of the Response, Applicant argues that the term "Class 5 softswitch" was defined on

page 2 lines 6-11 of the specification.

Examiner respectfully disagrees.

The quoted portion of the specification only states that Class 5 softswitch is a workstation

implementation of Class 5 switch and contain no in-depth information about the implementation.

On page 6 of the Response, Applicant argues that claim 9 limitation, "Class 5 softswitch

operable to receive signaling information in a network signaling format" is explained by example

of the SS7 as a network signaling format.

Examiner respectfully disagrees.

Application does not provide sufficient information on operation of Class 5 softswitch, stating

only that it is a workstation implementation of Class 5 switch, and does not disclose format of

SS7 messages, compatible with a workstation implementation of Class 5 switch.

Format of SS7 messages operating with Class 5 switch is well known, but the format of the SS7

messages operating with Class 5 softswitch is not.

Claim Rejections - 35 USC § 103

On pages 7 and 8 of the Response, Applicant argues that Smyk does not teach a gateway that

converts the media gateway and call session format to a broadband loop emulation service

signaling protocol while also providing tone generation and detection.

Examiner respectfully disagrees.

Smyk teaches gateway 411 and SM 416 (Fig. 4 and 6:10-47) to emulate the signaling in the

packet network NGN (gateway media format) as local loop signaling for Class 5 switch.

Smyk teaches tone generation and detection accomplished in a separate access gateway 408.

Examiner believes, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to move tone generation and full detecting capabilities from an access

gateway to the gateway in the system of Smyk to reduce the system cost.

On page 8 of the Response, Applicant argues that claim 9 should be allowed, because it requires

a Class 5 softswitch as Smyk teaches only Class 5 switch.

Examiner respectfully disagrees.

As Applicant admitted in the background of the invention, Class 5 Softswitch is a concept of

implementation of Class 5 switch on a workstation server. Therefore, the limitation "Softswitch"

has not been given any patentable value, because it merely recites an implementation of Class 5

switch without introducing any claimed features new to the Class 5 switch operation.

On page 9 of the Response, Applicant requested evidence to support the Official Notice.

Claims 4, 7, 8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyk.

Applicant's arguments filed 05/17/04 have been fully considered but they are not persuasive.

The Official Notice presented in the Office action dated 2/17/04 is maintained.

Denman (US 6,490,451) teaches a media gateway using H.248 and CIP+ protocols (9:12-26).

MacMillan (US 6,278,707) teaches a media gateway using SIP and H.323 protocols (7:37-46).

Examiner therefore believes that the rejections are proper.

Conclusion

7.   This is a reconsideration of applicant's earlier Application No. 09/685,274. All claims

are drawn to the same invention claimed in the earlier application and could have been finally

rejected on the grounds and art of record in the next Office action if they had been entered in the

earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first

action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however,

event will the statutory period for reply expire later than SIX MONTHS from the mailing date of

this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Dmitry Levitan whose telephone number is (571) 272-3093. The

examiner can normally be reached on 8:30 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dmitry Levitan
Patent Examiner.
12/17/04

HASSAN KIZOU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600